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DEGA, MURALI K				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary

Application No.

10/811,263

Applicant(s)

KALINICHENKO ET AL.

Examiner

MURALI K. DEGA

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) None is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Acknowledgements

1. This Office action responds to the appeal brief filed on 26 May 2009.
2. Claims 1-20 are pending.
3. Claims 1-20 have been examined.
4. This office action is in response to the Pre-Appeal Request filed July 9, 2009.

The USPTO mailed a Pre-Appeal Decision on Sept 8, 2009 indicating reopening of prosecution.

Claim Objections

5. Claim 12 is objected to because of the following informalities:
6. Claim 12 recites "voice channel cannot be accessed by a unauthorized person", which appears to have been intended to be -- cannot be accessed by an unauthorized person --.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 14-20 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.
9. Under the broadest reasonable interpretation standard, claims 1-20 recite a only non-statutory subject matter. In particular, the claims recite a computer program within and/or on a propagated signal. The Examiner notes that using the broadest reasonable interpretation of "carrier" as noted below, the claimed "carrier" is interpreted as 'propagated signal.'
10. Because signal claims are not in any statutory category, Applicants' signal claims are not considered statutory subject matter. See *In re Nuijten*, 500 F3d 1346, 84 USPQ2d 1485 (Fed. Cir. 2007) and *In re Nuijten*, 515 F3d 1361, 85 USPQ2d 1927 (Fed. Cir. 2008)(petition for panel rehearing and petition for rehearing en banc denied). Because the claims are not within one of the four statutory classes of invention, the claims are rejected under 35 U.S.C. §101.

Claim Rejections - 35 USC § 112 – 2nd Paragraph

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
12. Claims 1 and 3 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with errors. Some examples follow:

13. Claim 1 recites the limitation "the form" in line 4. There is insufficient antecedent basis for this limitation in the claim. The phrase is indefinite because it is unclear to one of ordinary skill in the art if the "the form" is same as "electronic form" or if the Applicant is claiming one "electronic form" that is transmitted to a customer and a different "form" that includes a link that establishes a voice channel between "the passenger" and a customer representative.

14. Claim 1 recites the limitation "the passenger" in line 5. There is insufficient antecedent basis for this limitation in the claim. The phrase is indefinite because it is not clear to one of ordinary skill in the art if "the passenger" is different person that activates the link, from "a customer" recited in line 2.

15. Claim 1 recites "transmitting an electronic form for display to a customer" in line 2 of claim 1. However, on line 3, the claim recites "receiving user-entered data for at least one field present in the electronic form;". It is unclear to one of ordinary skill in the art, if the recited "user" is same as "a customer". If "user" and "a customer" are not the same, then, it is not clear as to how the user got the electronic form sent to "a customer".

16. Further, claim 1 recites "wherein the form includes a link that, when activated, establishes a voice channel between the passenger and a customer representative". It is unclear if the Applicant is referring to "a customer" as "the passenger" because to one of ordinary skill in the art, "a customer" and "the passenger" can be different people.

17. Claim 1 recites in line 4, "wherein the form includes a link that, when activated, establishes a voice channel between the passenger and a customer representative". It is unclear if the "the form" is same as "electronic form" or if the Applicant is claiming one

"electronic form" that is transmitted to a customer and a different "form" that includes a link that establishes a voice channel between "the passenger" and a customer representative.

18. Claim 3 recites "further comprising authenticating a user before transmitting the electronic form." It is unclear to one of ordinary skill when and how this authentication can be performed if the user did not receive the electronic form, did not enter at least one field in the electronic form and did not activate a link that includes a unique identifier associated with the user entered data.

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leiseca et al. (US 5,253,165) in view of Meunier (US 2002/0186144).

21. With respect to claims 1 and 14:

22. Leiseca discloses a method comprising:

- a. transmitting an electronic form ("information screens", C 3, ll. 30-31) for display to a customer ("data base 1 is programmed to send display information to each of the CRTs in the form of user information screens", C 3, ll. 28-31).

- b. receiving user-entered data for at least one field present in the electronic form ("data base 1 is programmed to receive and respond to data information entered by system users", C 3, ll. 31-33) wherein the form includes a link that, when activated, establishes a voice channel between the passenger and a customer representative wherein the link includes a unique identifier associated with the user- entered data that enables a customer representative to view the user- entered data.
- c. Leiseca discloses a computerized reservation and scheduling system but does not explicitly disclose a link being provided to the passenger.
- d. However, Meunier teaches wherein the form includes a link ("link", ¶ [0218]) that, when activated, establishes a voice channel between the passenger and a customer representative ("it is provided for the system to automatically establish a voice communication between the user and a live operator", ¶ [0376]) wherein the link includes a unique identifier ("identification process such as answering personal questions to confirm said user's identity", ¶ [0269]) associated with the user- entered data that enables a customer representative to view the user- entered data. ("With the help of various means, such as voice instructions over IVR and/or DTMF systems and Internet sites, the user is able to find any rental location in the system register and obtain related maps, directions and link to services", ¶ [0218]).

- e. Also, Meunier teaches establishing a communication link between the user and the Customer Service and Response center by pressing a single button on the OBU or the display. ¶ [0281])
 - f. Therefore it would have been obvious to a person having ordinary skill in the art, at the time of invention, to have combined the systems of Leiseca and Meunier to provide a form that includes a communication link to initiate a phone call with a live customer service representative, for instant assistance for better customer service and ease of use, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.
23. With respect to claims 6 and 20:
24. Leiseca discloses the electronic form is for making a reservation with a transportation service provider ("user information screens displayed on each of the terminal units by the computerized data base ...", C.3, ll. 38-68, C. 4, ll. 1-55 and "Various other display screens may be provided for facilitating transactions between the system users", C. 5, ll. 8-9).
25. With respect to claims 3 and 17:
26. Meunier discloses further comprising authenticating a user ("User authentication", ¶ [0268], "before enabling a new user to actually use a rental vehicle, the system verifies that the information submitted by a particular user is correct and acceptable without or with minimal human intervention", ¶ [0181]) before transmitting the electronic form.

27. With respect to claims 4 and 18:

28. Meunier discloses providing the electronic form comprises transmitting the electronic form for display on a wireless handheld device ("Access control means", ¶ [0096], and "A mobile phone (10), an Internet-enabled mobile phone and any similar or hybrid personal communication device (11)", ¶ [0100]).

29. With respect to claims 5 and 19:

30. Meunier discloses the unique identifier comprises an extension of a phone number ("Registration related process", ¶ [0167] and "users with means to securely, autonomously and electronically register or update their personal information with a vehicle rental service provider, such as address, telephone number", ¶ [0168])

31. With respect to claims 9 and 11:

32. Meunier discloses a system comprising a first computing device adapted to display an electronic form, receive user-entered data for at least one field present in the electronic form, and display a link that, when activated, calls a customer representative and provides a unique identifier associated with the user-entered data that enables a second computing device to retrieve and display the user-entered data based on the unique identifier ("an Internet-enabled mobile phone and any similar or hybrid personal communication device (11), ¶ [0100] and Fig. 2 item 11, also see the claim 1 rejection above).

33. With respect to claim 10:

34. Meunier discloses a second computing device adapted to receive the unique identifier, retrieve the user-entered data based on the unique identifier and display the

user-entered data ("a central reservations, management and location system (CRMLS) in communication through a communications network ... performing all reservations and management functions", Abstract and ¶ [0062])

35. With respect to claim 12:

36. Meunier discloses the unique identifier comprises identification of a voice channel so that the voice channel cannot be accessed by a unauthorized person ("Registration related process", ¶ [0167] and "users with means to securely, autonomously and electronically register or update their personal information with a vehicle rental service provider, such as address, telephone number", ¶ [0168]).

37. Therefore it would have been obvious to one of ordinary skill in the art, at he time of invention to have combined the systems of Leiseca and Meunier, to include use of wireless handheld device capable of communicating the identification information for authentication purpose and internet capable to display the forms and accept user input through a key pad, for the purposes of ease of use, customer convenience and user information security, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

38. Claims 2, 7, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leiseca and Meunier as described above and further in view of Garbers et al. (US 2004/0073440)

39. With respect to claims 2 and 16:

40. Leiseca and Meunier disclose computerized reservation with minimal human intervention but do not explicitly disclose active and prolonged participation of a live customer representative.

41. However, Garbers teaches involvement of a customer service representative called "agent" who performs who performs retrieving, by a computing device associated with the customer representative, the user-entered data based on the unique identifier ("the agent must confirm that the customer has a valid reservation and that the agency has a vehicle of the type identified in the reservation available for assignment to the customer. Once the agent confirms these things, the agent selects an available vehicle (i.e., if more than one vehicle is available for assignment) and assigns the selected vehicle to the customer (e.g., by the input of customer and vehicle information to a computer system) ¶ [0004]).

42. With respect to claim 7:

43. Garbers discloses receiving user-entered data comprises receiving user-entered data corresponding to a pick-up location, a drop-off location, a date service is required, and a time service is required ("The vehicle reservation application 304 collects information related to a reservation from each user, including, but not limited to: the user's identification code (i.e., assigned to a user when the user is provided with a smart key for use with a fleet's vehicles 112); the start day/time of the reservation; the end day/time of the reservation; the desired vehicle pickup location;" ¶ [0034]).

44. With respect to claim 15:

45. Garbers discloses wherein the instructions are further operable to cause the data processing apparatus to enable the customer service representative to enter additional information not included in the user-entered data to make a reservation to enable dispatching a car and billing the passenger accordingly ("the agent selects an available vehicle (i.e., if more than one vehicle is available for assignment) and assigns the selected vehicle to the customer (e.g., by the input of customer and vehicle information to a computer system). The agent then provides the customer with conventional toothed metal keys unique to the vehicle (i.e., the toothed metal keys work only with one vehicle), information which identifies the current location of the vehicle (e.g., a number assigned to the parking space in which the vehicle was placed by other vehicle rental agency personnel), and instructions directing the customer on how to find the vehicle's location". ¶ [0004])

46. Therefore it would have been obvious to one of ordinary skill in the art, at the time of invention to have combined the systems of Leiseca and Meunier with that of Grabers, to include participation of active and live customer representative to assist the customer in completing the vehicle reservation and use of pickup, drop-off location and date and times, for reservation accuracy, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

47. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leiseca and Meunier as described above and further in view of Mashinsky (US 20060059023).

48. With respect to claim 8:

49. Leiseca and Meunier disclose computerized reservation of vehicles but do not explicitly disclose a driver.

50. However, Mashinsky teaches a taxi reservation system in which the reservation is associated with reserving a vehicle and a driver ("a taxi-reservation system 100 comprising an exemplary network of a plurality of taxi customers 110, taxi drivers 120 and a central controller 130", ¶ [0026])

51. Therefore it would have been obvious to one of ordinary skill in the art, at the time of invention to have combined the systems of Leiseca and Meunier with that of Mashinsky, to include reservation of a driver if a customer so desires for added comfort of the customer where the customer need not have to drive the vehicle, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

52. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leiseca and Meunier as described above and further in view of Official Notice.

53. The Examiner takes Official Notice that it is old and well known in the art that wireless handheld devices (wireless phones or cell phones) are capable of accepting voice commands to initiate calls for hands free calling as a safety measure for the automobile drivers while driving. Also, refer to PG publication US 2005/0113122 of Korneluk, ¶ [0019].

54. Therefore it would have been obvious to person having ordinary skill in the art, at the time of the invention, to have modified the system of Leiseca and Meunier to include a customer using a wireless handheld device as recited in claim 11 as a first computing device as recited in claim 9, that is capable of accepting voice commands from the customer, as was well known to those of ordinary skill in the art, in order to provide an added comfort feature, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Claim Interpretation

55. Claim 1 recites "transmitting an electronic form" which inherently requires a machine. Because the claim requires a machine, the claim satisfies the Machine-Transformation (M-T) test and complies with 35 U.S.C § 101 requirement.

56. Because none of the examined claims recite "step for" or "means for," the examined claims fail Prong (A) as set forth in MPEP §2181. Because all examined claims fail Prong (A) as set forth in MPEP §2181, the Examiner concludes that the examined claims do not invoke 35 U.S.C. §112, 6th Paragraph. See also *Ex parte Miyazaki*, 89 USPQ2d 1207, 1215-16 (B.P.A.I. 2008)(precedential).

57. After careful review of the original specification, the Examiner is unable to locate any lexicographic definitions with the required clarity, deliberateness, and precision. See MPEP § 2111.01 IV.

58. The Examiner hereby adopts the following definitions under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), the Examiner points to these other sources to support his interpretation of the claims. Additionally, these definitions are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

g. **Channel:** n. 1. A path or link through which information passes between two devices. A channel can be either internal or external to a microcomputer.

Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

h. **Carrier:** A propagated signal. Applicants original Specification states:

The above-described techniques can be implemented in digital electronic circuitry, or in computer hardware, firmware, *software*, or in combinations of them. The implementation can be as a computer program product, i.e. a computer program tangibly embodied in an information carrier, e.g. ... in a *propagated signal* [Emphasis added.] Applicants' original specification, p 18, L 5-8.

i. **For:** "1 a -- used as a function word to indicate purpose... b -- used as a function word to indicate an intended goal" Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

j. **Adapt:** "to make fit (as for a specific or new use or situation) often by modification." Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield, M.A. 1986.

- k. **To:** "2a -- used as a function word to indicate purpose, intention, tendency, result, or end." Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.
- l. **Associate:** "4 : to bring together or into relationship in any of various intangible ways (as in memory or imagination)." Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.
- m. **Device:** "A generic term for a computer subsystem." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.
- n. **Enable:** "1 a : to provide with the means or opportunity... b : to make possible, practical or easy" Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.
- o. **Information:** " 2 a . . . (3): FACTS, DATA . . ." Merriam-Webster's Collegiate Dictionary, 10th Edition, Merriam-Webster Inc., Springfield, M.A., 1997.
- p. **User:** a person or thing that uses. The Random House College Dictionary. Revised Edition 1982.

Response to Arguments

Applicant's Arguments Regarding claim 1:

59. Applicant argues that the prior art does not identify "establishes a voice channel".

Examiner's Response:

60. Applicant's argument with respect to claim1 has been considered but is moot in view of the new ground(s) of rejection.

Applicant's Arguments Regarding claim 1:

61. Applicant argues that the prior art does not identify "a link that includes a unique identifier associated with the user-entered data that enables a customer representative to view the user-entered data".

Examiner's Response:

62. Applicant's argument with respect to claim1 has been considered but is moot in view of the new ground(s) of rejection.

Applicant's Arguments Regarding motivation to combine Block and Lecouturier:

63. Applicant argues that there is no reason to modify the teachings of Block and Lecouturier.

Examiner's Response:

64. Applicant's argument with respect to claim1 has been considered but is moot in view of the new ground(s) of rejection.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MURALI K. DEGA whose telephone number is (571)270-5394. The examiner can normally be reached on Monday to Thursday 7.30 to 4.00 ET.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571)272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information

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/M.K.D/

Art Unit 3621

/ANDREW J. FISCHER/

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